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TELEPHONE : 858.622.6095
DATE : November 30, 2005

PC19150A; Appn No. 10/811,513

MESSAGE:

Submitted herewith is the following:

1. RESPONSE TO RESTRICTION/ELECTION REQUIREMENT UNDER 35 U.S.C. 121 **2 pages.**

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Christina M. Compelube

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T-804 P.002/003 F-353

PC19150A
Response to Restriction/Election Requirement Under 35 U.S.C. 121 for
Appn. No. 10/811,513

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S/ 
Christina M. Comptelube

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re the Application of: Canan-Koch et al. Serial No.: 10/811,513 Confirmation No.: 1955 Filed: March 29, 2004 For: SALTS OF TRICYCLIC INHIBITORS OF POLY(ADP-RIBOSYL)POLYMERASES | Group Art Unit: 1624 Examiner: Kifle, Bruck Ph.D. Attorney Docket No.: PC19150A |
|---|--|

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT UNDER 35 U.S.C. 121

This Election is responsive to the Office Action mailed November 4, 2005. The Office Action, in the form of a restriction requirement, set forth a one month period of time to reply. Accordingly, this Election is being submitted before or on its current due date of December 4, 2005.

In response to this Office Action, consideration of the following remarks is respectfully requested.

REMARKS

Restriction Requirement

Claims 1-12 stand restricted into 7 groups defined at page 2 of the outstanding Office Action.

Applicants hereby elect Group II drawn to a chemotherapeutic combination with traverse. Claims 4-7 read on the elected group. In the event the claims of Group II are found allowable, Applicants respectfully request rejoinder and search of the subject matter of Group I and Group III, in part, limited to a method of improving the effectiveness of a cytotoxic drug.

The restriction requirement is respectfully traversed for the following reasons.

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Attorney Docket No. PC19150A

In order to require restriction between independent or distinct inventions, the Examiner must show that searching the entire scope of Applicants' claims is a serious burden. M.P.E.P. § 803.

Applicants submit that at least the subject matter of Groups I-III are so closely related, that a search and examination of Claims 1-8 can be made without serious burden. The chemotherapeutic combinations of Claims 4-6 of Group II include the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 and a chemotherapeutic agent. Claim 8 of Group III is directed to a method of improving the effectiveness of a cytotoxic drug which method comprising: administering to the mammal an effective PARP-inhibiting amount of the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 in conjunction with the administration of the cytotoxic drug. Applicants note that a proper search of the chemotherapeutic combinations of Claims 4-6 would, by necessity, require a proper search of the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 and the method of Claim 8. Thus, Applicants submit that the entire group as presently claimed can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained. Accordingly, this renders the restriction requirement as improper. See MPEP 803.

In light of the above, Applicants submit that, at the very least Groups I-III should be combined. Reconsideration and withdrawal of the restriction are earnestly solicited.

Conclusion

Applicants believe all claims are now in condition for allowance. Should there be any issues that have not been addressed to the Examiner's satisfaction, Applicants invite the Examiner to contact the undersigned attorney.

Applicants do not believe any fees are due in connection with this response. If any fees are due in connection with this response, please charge such fees to Deposit Account No. 500329.

Respectfully submitted,

Date: November 30, 2005

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